* **HIGH COURT OF DELHI : NEW DELHI**

\+ **WP(C) No. 1007/2007**

% Date of decision: August 17, 2007.

Vinod Kumar ..... Petitioner
Through: Mr. M. Dutta, Advocate

versus

Oriental Bank of Commerce ..... Respondent
Through: Mr. B.L. Anand, Advocate
& Ms. Supreet Kaur,
Advocate for R.No.4.

CORAM
HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE VIPIN SANGHI

1. Whether the Reporters of local papers may be allowed to see the judgment?

2. To be referred to Reporter or not?

3. Whether the judgment should be reported in the Digest?

A.K. SIKRI, J. (Oral)

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1. This petition is filed against order dated 18th January, 2007 passed by the Recovery Officer attached to Debt Recovery Tribunal – I, Delhi. Respondent no.1/Bank has obtained decree from the Debt Recovery Tribunal and recovery proceedings are in the progress which are being conducted by the Recovery

Officer. There are various persons against whom the Recovery Certificates have been issued including the petitioner herein. Property of the petitioner at Ballabgard was mortgaged with the respondent no.1/Bank and therefore respondent no. 1/Bank has applied for sale of the said property. When the matter was listed on 12th January, 2007, the valuation report in respect of this property was filed by the Bank and the Recovery Officer adjourned the matter to 18th January, 2007 at 2.00 PM for settling the sale terms.

2. On 18th January, 2007, petitioner did not appear and in these circumstances, the Recovery Officer passed the sale proclamation order fixing the reserve price of Rs. 7.73 lakhs. For their non-appearance, a show-cause notice for arrest was issued to the petitioner herein.

3. In this petition, petitioner alleges that because of traffic chaos on that day, the lawyers and litigants were prevented from reaching the Tribunal and it is because of this reason that the petitioner could not appear in the Court. Later on when he enquired about the case, he was informed that the matter is adjourned to 8th February, 2007. However, he came to know that the matter was taken up at 3.00 PM and aforesaid order passed.

4. Bank has filed their counter affidavit refuting the aforesaid stand taken by the petitioner. It is submitted that the case was fixed after lunch, i.e., at 2.00 PM when there was no such traffic problem and many persons attended the hearing in this case itself which is a proof enough to support the contention of the Bank that the lawyers and litigants were not prevented from appearing in the Court.

5. Be that as it may, since the petitioner has appeared and undertakes that he shall appear before the Recovery Officer on the next date as well as on subsequent dates fixed by the Recovery Officer, the order to the extent of issuing show-cause notice for arrest against the petitioner is hereby set aside.

6. Petitioner shall appear before the Recovery Officer on 5th September, 2007 when the Recovery Officer shall proceed further in the matter.

7. Petition stands disposed of in view of the aforesaid.

8. Dasti to learned counsel for both the parties.

A.K.SIKRI, J.

VIPIN SANGHI, J.

August 17, 2007
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